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July 15, 2024

VIA ECF

Honorable Jennifer L. Rochon
United States District Court
Southern District of New York
500 Pearl Street, Room 1920
New York, NY 10007

Re: *Roth v. Armistice Capital, LLC et al.*, Case No. 1:20-cv-08872 (JLR)

Dear Judge Rochon:

We represent defendants Armistice Capital, Armistice Capital Master Fund Ltd., and Steven J. Boyd (together, the “Armistice Defendants”) in the above-captioned action. We write pursuant to Rule 4(B) of Your Honor’s Individual Practices in Civil Cases to respectfully request redaction of certain information that Plaintiff Andrew E. Roth (“Plaintiff”)’s counsel has informed us that they intend to file in support of Plaintiff’s Reply to the Armistice Defendants’ Opposition to Plaintiff’s Motion for Relief from Judgment, an Indicative Ruling, and Sanctions. Nominal defendant Vaxart, Inc. (“Vaxart”) joins in this request. In accordance with Your Honor’s rules, we conferred with Plaintiff’s counsel by email on July 12, 2024. Plaintiff’s counsel has no objections to the proposed redactions. We are submitting herewith copies of the two documents with redactions and will contemporaneously file under seal unredacted, highlighted copies of those same documents.

Despite the presumption of public access to judicial documents, courts permit the sealing and redaction of documents when faced with countervailing factors that warrant confidentiality. *See Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 120 (2d Cir. 2006); *see also Nixon v. Warner Commc’ns Inc.*, 435 U.S. 589, 598 (1978). Courts take certain privacy interests, including the need to protect confidential personal information, into account when granting requests to seal and redact information. *Lugosch*, 435 F.3d at 124; *see also Rojas v. Triborough Bridge & Tunnel Auth.*, No. 18-CV-1433 (PKC), 2022 WL 773309, at *3 (S.D.N.Y. Mar. 14, 2022) (considering the “privacy interests” of individuals in granting motion to redact confidential personal information). As a result, courts routinely permit parties to redact personally identifiable information such as personal telephone numbers and email addresses. *See, e.g., Rojas*, 2022 WL 773309, at *3 (permitting redaction of witness’s telephone number because it “does not assist the public in



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monitoring or understanding the judicial process”); *United States v. Vinas*, No. 08-CR-823 (NGG), 2017 WL 1969665, at *2 (E.D.N.Y. May 11, 2017) (redaction of personal phone number to protect privacy interest was consistent with rules permitting redaction of “personal identifying information”); *Palomo v. DeMaio*, No. 515 Civ. 1536 (LEK), 2018 WL 5113133, at *2 (N.D.N.Y. Oct. 19, 2018) (ordering redaction of “personal identifying information, email addresses, mailing addresses, and phone numbers not already public”).

Here, Plaintiff’s proposed exhibits include personal mobile telephone numbers and a personal email address. The personal telephone numbers and email address are not relevant to any claim or defense in this case, and would not be helpful to the public in monitoring or understanding the judicial process. *See Rojas*, 2022 WL 773309, at *3. This is the type of personal identifying information that courts permit to be redacted, and the proposed redactions are narrowly tailored to protect the privacy interests of these individuals without burdening the public’s right of access. *See id.*

For these reasons, the Armistice Defendants and Vaxart respectfully request that the foregoing documents be filed under seal and with redactions.

Respectfully,


/s/ Kaitlin D. Shapiro
Kaitlin D. Shapiro

cc: All Counsel (via ECF)

The requested redactions are APPROVED given the limited nature of the proposed redactions and the immateriality of the redacted information to the issues before the Court.

Dated: August 8, 2024
New York, New York

SO ORDERED.


JENNIFER L. ROCHON
United States District Judge